LIBERTY OF THE PRESS!

LIBERTY OF THE PRESS!

SIR JOHN CARR

AGAINST

HOOD AND SHARPE.

REPORT

OF THE ABOVE CASE,

TRIED AT GUILDHALL, THE SITTINGS AFTER TRINITY TERM, BEFORE

LORD ELLENBOROUGH,

AND A SPECIAL JURY,

On Monday, the 25th July, 1808.

TAKEN IN SHORT HAND BY THOMAS JENKINS.

TO WHICH ARE ADDED

SEVERAL LETTERS ON THE SUBJECT,

WRITTEN BY THE EARL OF MOUNTNORRIS, SIR RICHARD PHILLIPS, AND THE AUTHOR OF "MY POCKET BOOK."

LONDON:

Printed by W. Wilson, St. John's Square,

FOR VERNOR, HOOD, AND SHARPE, 31, POULTRY; AND TO BE HAD OF EVERY BOOKSELLER IN THE KINGDOM.

1808.

Price Three-pence.

AC 911 .1808, C37

ADVERTISEMENT.

THE FREEDOM OF THE PRESS, established by the Verdict in the following Trial, makes every thing relating to it worthy of record.

Another REPORT of this Case has been published, which being neither so correctly printed, nor so full with respect to the Letters that appeared subsequently in various papers, from the EARL OF MOUNTNORRIS, SIR RICHARD PHILLIPS, and the AUTHOR of "MY POCKET-BOOK," it was thought proper to furnish the Public with what is here presented to them, for their better information.

In the Publication alluded to, are numerous typographical errors, a false date to the Trial, and some omissions, particularly the replies made to the Earl of Mountnorris, and Sir Richard Phillips, by the Author of "*My Pocket-Book.*" In the present work there is only one omission, and that is a *note*, which has by some strange *accident*, crept into page 54 of the Report printed by Mr. GILLET, Printer to SIR

RICHARD PHILLIPS. Its object is to attack with vulgar obloquy the ATTORNEY-GENERAL, for his ingenuous Remarks on the Evidence, and to panegyrize, in the most fulsome manner, the life and behaviour of Sir Richard Phillips.—The former was deemed wholly unjust to the honourable character of the ATTORNEY-GENERAL, and the latter was suppressed out of delicacy to Sir Richard Phillips, who is said, in *his memoir*, p. 5, to be known *to nauseate an adulatory dish.*

LIST OF THE JURY.

CARR, Knt. against HOOD and Another.

SPECIAL JURY.

JAMES GIBSON, of Great St. Helens, *Foreman.*
THOMAS BRITTEN, Suffolk-lane.
JOHN SAUNDERSON, Broad-street Buildings.
HENRY WARD, Bread-street.
ROBERT TAYLOR, Crutched Friars.
JOHN NIXON, Basinghall-street.
JOSEPH MINNET, Lawrence Pountney-lane.

Merchants.

FROM THE TRAVERSE JURY.

JOHN PURVIS, Bishopsgate-street Without.
JOSEPH IRONS, same.
JOHN BIRCHENOUGH, Coleman-street Ward.
ROBERT MACGLEW, same.
MORGAN JAMES, same.

TRIAL

BETWEEN

SIR JOHN CARR, PLAINTIFF,

AND

THOMAS HOOD AND CHARLES SHARPE, DEFENDANTS;

FOR A LIBEL.

Damages laid at 2000l.

MR. DAMPIER opened the pleadings.

Mr. GARROW: *May it please your Lordship.* Gentlemen of the Jury.—This Action is brought by Sir John Carr, a Gentleman of liberal education and respectable connections; against the Defendants, very opulent booksellers, and carrying on great trade in this metropolis. The complaint which Sir John Carr has against these Gentlemen is, that he, having published several works giving an account of his tours through different parts, and being about to publish another work of the same nature; they, for the purpose of ridiculing his works, which have been hitherto well received by the public, published a book, the which if it be not reprobated, by your verdict this day, will have the effect of ruining him as an author; for he certainly cannot, if this book of the Defendants be received as genuine criticism, publish any thing to his advantage—indeed in that case, he will never be able to publish any thing hereafter without a loss. The obvious aim of the publishers of the book, of which I complain, is to destroy Sir John Carr utterly, as an author, so that nothing hereafter that may be ushered into the world with his name to it, should be favourably received.

Gentlemen.—For a very considerable time, it has been, as you well know, the fashion, whenever a book is introduced into the world, for persons to give to the world, on the first day of every month, their sentiments on the merits and demerits of such a book; these Gentlemen are called Reviewers. They have great advantages over those whose works they criticise, for they have an opportunity of attacking a person who is well known, while themselves remain unknown; the consequence is, that whenever their criticism shall be discovered to be absurd, which it may sometimes be, they have no individual disgrace to encounter, they appear in public as if they had never done any thing that is foolish. Not so the author, if he should happen to be successfully ridiculed; for he is known and may be pointed at as he walks. Such are the advantages of an anonymous critic over a known

author. But as far as regards fair, honourable, or candid criticism of this work, Sir John Carr has no fault to find with it. He knows full well, that when any literary work makes its appearance, it is proper that observations should be made upon it. He has no wish to prevent them; and he feels no interest in so doing; and as men will differ very much in their opinions, (and necessarily must from their difference of capacity,) upon almost all subjects, certainly not less on taste than on any other; he will not quarrel with any other person for not viewing his production with the partiality and affection of a parent; but what he complains of, and what I say he has a right to complain of before you is, that under the mask of criticism, his character, as an author, has been attacked with a view to ruin it. I am not complaining of any detached paragraph in a review; but I am complaining of a book published by these Defendants, not for the purpose of fairly criticising his work, but for the purpose—the malicious purpose, of ruining him as an author; by turning every thing he has written into immoderate ridicule. The object is to ruin Sir John Carr in the opinion of the public, as an author. I will prove this to be the intention of these Defendants; for I have a copy of the third edition of their book, published this very day—and that they have declared such to be their intention, and that since this action was commenced, that is since, by the service of the process of this court, they had notice they should be called to account in a court of justice for their misconduct. I will prove to you that they said, "that Sir John Carr was ill advised to bring this action: that he will be found out and exposed by it—that they wondered he had been foolish enough to appeal to a jury in Guildhall: that it would only make him the more ridiculous: that they had a rod in pickle for him: that they would do for him." Not as a private man, because Sir John Carr is invulnerable in that respect; but because these Defendants were disposed to intercede between him and the public, by exhibiting to them, these ridiculous scenes. He had appeared before the public in the character of a respectable author. "They would take care he should never appear in that character again."

Gentlemen,—On the 14th of March 1808, there appeared a book called "My Pocket Book, with plates," with an introduction; illustrative anecdotes from my "Tour through Holland," in 1806; an appendix containing three MSS. found in St. Patrick's abbey; and an Essay in Defence of bad Spelling. And on the 20th of July 1808, they published, what I call the 3d edition * of that book. Perhaps they will call it only a part of the 2d edition. These Gentlemen understand, though I do not, the arcana of these matters. I have heard of the 14th edition of a book before twelve copies of the 1st were sold. The Defendants shall settle that matter for themselves, and I will lay the truth of it before you. What I maintain, and what I undertake to make out to your satis-

* This is a mistake, it *was* only the 2d edition.

faction, is, that the object of the author of this book, called " My Pocket Book," and the object of the Defendants in publishing it was, and is, immoderately to ridicule, and to bring into contempt, and thereby to ruin the reputation of Sir John Carr, as an author, so that he may have no chance of publishing any work in future with success.

My objection to this work is, that it does not give a true narrative of the work, which it professes to review; nor even reasons upon its imperfections, but contains only ridiculous observations from the beginning to the end. The object is to treat the work as mere rubbish. A work, give me leave to say, however, Gentlemen, which has been gotten up at considerable expence, to be presented to the public, and which has, hitherto, been favourably received by the public. I shall desire your particular attention to the frontispiece of this book called " My Pocket Book," which must have been also got up at considerable expence, for it is somewhat elaborate. I shall take the liberty of handing over to you one of these books of the Defendants, while I shall endeavour to explain to you, briefly, some of the particulars of this frontispiece; and which I shall do by reading to you, from the record, those parts of which we chiefly complain—and by which I say, the object of the Defendants, in publishing this book, is most manifestly malignant towards Sir John Carr, for that it is an endeavour to hold him up as an object of contempt and ridicule. The frontispiece will be best explained to you, by the words which you will find in page 29—Sir John Carr is represented as a Knight Errant leaving Ireland with regret. He is introduced into this plate called the frontispiece. Behind him you have a crowd of Irish humourists preceded by an huge athletic porter, with a load upon his shoulders, and bending under its extreme weight, that load consisting of the books of Sir John Carr, lettered on the back of the binding.—One—" Baltic."—Another " Stranger in France."—A third—" Northern Summer"—This to convey an idea that the works of Sir John Carr are dull and heavy—and lest that should not be ridiculous enough, there is, in the left hand of the porter, an handkerchief tied up at the corners, and on it is written, " Wardrobe," by which we are to understand, that Sir John Carr's property is light, although his works are heavy. The title, which is given at the bottom of the frontispiece, is " The Knight leaving Ireland with Regret"—and then, to conduct us to an explanation of the plate, the author, in a parenthesis, is so good as to say—see plates described. Now, Gentlemen, this plate is described, as I before hinted, in page 29—of what the author calls " his Prefatory Postscript"—or, Introduction. The words are these, FRONTISPIECE; in large letters in the middle of the page, to strike the eye. Now you shall see what you shall see, you here behold the Knight ERRANT LEAVING Ireland " with Regret" in italics, by way of emphasis, to assist the ridicule. Behind him, you have a crowd of *wits*, and *humourists*. The word " *Wits*," and the word " *Humourists*," again in italics, to assist the ridicule.—" Setting up an Irish howl." The athletic porter

who follows him, " is bent by the weight of his works, and wardrobe."—The word " Weight" being confined to the works by the assistance of italics.—" The latter in a pocket handkerchief." —An unworthy sneer at the supposed slenderness of Sir John Carr's property. " The Knight himself is, according to the simile of the bee;" then we have a reference to page 203.— " loaded with the collected sweets of travelling—Joe Miller, &c. —The scene is Dublin.—The long coach (see page 19,) waits to take him to the packet. For a description of the roof, the cock, and the cook-maid, (see page 58) and with respect to the *pig*, (see page 152) A little wit." Here again we have the aid of italics on the word " Wit."—" A little wit lights him to the carriage. (see page 130). In the distance on the left is a jaunting car"—a paltry and contemptible pun upon the name of Sir John Carr. " On the right, Sugar Loaf Mountains. On all important occasions, the death of Cæsar," with an asterisk referring to Plutarch's Cæsar.—" A blazing Comet." And then are quoted the lines of Pope:—

> " But trust the muse.—She saw it upward rise,
> Tho' mark'd by none, but quick, poetic eyes,
> A sudden star is shot thro' liquid air,
> And drew behind a radiant trail of hair."

" Erratic Stranger"—then by an asterisk, we are led to another note.—See Pye's Sublime Ode for the present year 1808, stanza I.— Comets are not perfectly understood, and I am led to guess, that from this title given to them, by so great a poet, they may be nothing more than *travellers*, like myself, or as I may say, " *Strangers in Heaven.*"—" Now," he says, " You behold a Cloud—'tis Shakespear's, and very like a Whale."—The *Moon*, my favourite Star, (page 160) smiles benignly upon my labours." —Here again, we have an imputation of lunacy.—The moon, my favourite Star, smiles benignly upon my labours; and three wild Irish (see page 21) are, for this night only, seen flying in compliment to me.

Plate II. (Page 26.)

" A *noddy*, (see page 26) some idea is here afforded of this equipage; but minute correctness with regard to *heads and tails*, has been avoided for the sake of decency. For that rich bit on the left, as we artists call it," (see page 29.)

Plate III. (Page 82.)

See page 82, 3.—" In the distance, you behold horses ploughing by the tail. (See page 128.) Notwithstanding the civil, social, and intelligent looks of my admirer, some people might have been alarmed, but I felt confident in my weapon—a tooth-pick,"—and so on.

Now, Gentlemen, I have read to you those parts of this publication of these Defendants, of which we complain chiefly. I

take the rule which governs cases of this nature to be this; and I take the subject to be quite clear. I shall give it to you, not from any consideration of mine, or language of mine; but from that of my Lord, who has had occasion to lay down very lately, and that not only from authority, but from the reason of the thing—that if the thing published by way of stricture, be fair, I say fair, just criticism, although you, or I may differ from the critic; it is not the subject of an action in a court of justice. But if malicious, or an attack on the moral character of an individual; he is intitled to call on a court of justice, to protect his character, and that an author is as much intitled to that protection as any other man. Why then, the question is, whether this is a fair criticism, or a malicious representation of the works of Sir John Carr, with a view to depreciate his character.

On the subject of damages I have no difficulty in saying to you, Gentlemen, that I am not very anxious—it can never be necessary to say much to a jury of merchants in Guild-hall, on that subject upon a question which refers to the value of character; and money, after all, must fall short of what one would wish, under the circumstances of a case like this: damages however, are all that you can give. As to special damages, I would observe, as my learned friend, the Attorney-General, did observe on another, and but recent occasion, in this place, they are, in their nature, incapable of proof, up to their whole extent, for no one can know every individual who may have been influenced by such a publication as this. Special damages may be proved up to a given extent, because a given individual may prove the effect it has had upon himself, and induced him to decline treating with the Plaintiff on account of it;—but who else, or how many persons may have been influenced in the same way, it is impossible to prove, and therefore it may be truly said, that no man can prove, to its full extent, the special damage he sustains by reason of an attack upon his character. But however, I shall, in this case, prove to you certain special damages sustained by Sir John Carr; who is a Gentleman, who has devoted his time to literary labours. He has published several works. He is not in the habit of publishing them on his own account, but has sold them to opulent booksellers, and they have hitherto been favourably received by the public. He has composed, and prepared for the press, a work, and he was in treaty with Sir Richard Phillips, who was minded to give to him, for the copy-right of that work, a certain sum of money, with certain contingent advantages on the 2d edition; but he has declined dealing with Sir John Carr for that copy-right, and he will tell you, that his express reason for so declining, was the industrious malignity of this publication of the Defendants; I mean the book called, "My Pocket Book,"—a book, which has been obtruded on the public, and exhibited conspicuously in every shop where it could meet reception, which includes a great majority of all the booksellers of this kingdom, who are not afraid of the consequences of an action—it has been most extensively

advertised; and there have been invitations to the trade, to take it in a manner which is hardly ever used in works of this nature. The nonsense of it is indeed, perhaps, some excuse for the industry, with which it has been attempted to be so much diffused, for without a good deal of exertion, one could hardly imagine that they would be able to get rid of it. There are here, some booksellers who will tell you. that, at all events, they would not introduce it to the public, until after this trial; for if they did, they might sustain a loss. Up to a given extent I told you, Gentlemen, I shall prove to you, actual damages; but I cannot tell you how many hundreds of the volumes of the works of Sir John Carr, might have been sold, if it had not been for the strictures of this book, called "My Pocket Book," the author of which, I presume, would have you regard him in the light of a reviewer. Nor is the evil, which Sir John Carr suffers, confined to the mere loss of the sale of his manuscript to Sir Richard Phillips*, a matter in itself of considerable importance, but the publication of this libel must, unless prevented by your verdict, be highly injurious to the sale of the other works of Sir John Carr—his "Tour in Ireland," and his "Tour round the Baltic;"—works which, give me leave to say, Gentlemen, have hitherto stood well in the estimation of persons who are eminent in society. But now Messrs. Hood and Sharpe, eminent booksellers, chuse to say, by this their publication, that all the works of Sir John Carr, are ridiculous, and, therefore, nobody who believes Messrs. Hood and Sharpe, will buy any more of them; the consequence of all this will be, unless you prevent it by your verdict, that the sale of the works of that Gentleman will be entirely stopped, and his future prospect put an end to. His fame will be gone. Gentlemen, I have hitherto said nothing of my Client, except that he is the author of some books; he is a Gentleman of a liberal education, and polished manners. He was intended for our profession, but he was advised to decline its labours, on account of the delicacy of his health, for the benefit of which he was advised to travel. In his travels, he has noticed what he saw, and he has favoured the public with the scenes which appeared to him to be most remarkable, in which his aim has been, to blend instruction with amusement. He does not dive into the depth of politics. He enters no list in controversy. Joins no party. Assists no faction, but he gives us the full benefit of his observations, upon the various scenes of life of which he has been a witness; he has laboured to describe them to his reader, and he has made his labour the subject of emolument to himself. Of honourable emolument, I say; for, that emolument is honourable, which is derived from the labour of a genius, which contributes, at once, to our instruction and amusement. Such labours are suitable to the taste of the public. The success of those labours has been interrupted. But you will do their author justice. I know what Sir John Carr has to contend with here. My learned friend, the Attorney-General, will

* Sir Richard gave his answer in January, and the second edition of "My Pocket Book," with plates, was not published till the 24th Feb.

put in the works of Sir John Carr, from some parts of which, he will argue, that the works are ridiculous, and that the criticism upon them, is not unjust. I have not had an opportunity of reading those works—probably I may employ some part of my time, in the approaching long vacation, in looking at them. My learned friend may be furnished with some apology of this sort. Be it so. I apprehend that when he has offered you that apology, by shewing some passage in the works of Sir John Carr, which my learned friend can turn into ridicule. Who is it, that has published any work, which has not received the sanction of time, and silenced strictures; whose labours may not, in some respects be ridiculed, by the talents of a very ingenious man, using the licence which is allowable, and justly allowed to an advocate, making the best of his case for his Client in a court of justice?—There is hardly a man who ever spoke in public—except my learned friend; who, if an ingenious person were to mark every thing he said, might not be, for the moment, successfully ridiculed, for something which he uttered. But if my learned friend should say any thing in the course of the present sittings—I do not say that he will; and yet, before this cause is over, it is possible he may—say any thing which a man of his own genius, might turn into ridicule—should his Majesty's grave Attorney-General, fall into that situation, what should we say of the unmerciful critic who would expose the blemish, and omit all the beauties. For, if in the speech of my learned friend, a few blemishes might be discovered, yet the beauties would be innumerable. I think it is extremely possible, that up and down this work of Sir John Carr, there may be found some things which my learned friend may ridicule, taking them detachedly. (Here the Attorney-General interposed, observing, that Mr. Garrow was ridiculing him by anticipation.) My learned friend says, I am dealing with him ridiculously, by anticipation—that I am saying he is going to speak in a silly manner. That would be playing with edge tools, I shall not try it—I should have the worst of it—were I to impute folly to my learned friend, I should only expose my own. My case is, that Sir John Carr has been unfairly, unhandsomely, and unjustly treated, by these Defendants; that they have ridiculed him immoderately, and maliciously. That they have published a book, which was not for the purpose of giving to the world a fair, candid, manly opinion of his merits, or of his defects, whatever they may be; but that the whole aim of the Defendants, in the publication of this book, was to make Sir John Carr appear ridiculous to the world, and to ruin his reputation as an author and a Gentleman, which, I say, nobody has a right to do, and for which he now appeals to you.

Mr. Hunt examined.

Q. Did you purchase this book at any time?—A. I did.

Q. Of whom, and when?—A. Of Messrs. Hood and Sharpe, on the 14th of March, 1808. I inquired at the shop for the name

of the author, of the shopman, at the time of selling the book.

Mr. Attorney General.—" What the servant said, in the absence of the master, can hardly be evidence, my Lord: but I am not anxious about it.

Lord Ellenborough.—" I think the master must be presumed to authorize his shopman to represent him, in giving the character of the book, as well as in selling it.

Mr. Attorney General.—I have not the least objection to the evidence.

Mr. Hunt.—" I enquired at the shop, at the time of the sale of the book, for the name of the author, but the shopman would not tell me the name. At other times I have bought magazines for the months, the Monthly Mirror and two others, one for April, another for June, published at the same shop.

Mr. Attorney-General.—" There is no count in the declaration applicable to this evidence.

Mr. Garrow.—" I offer the evidence to shew the disposition of the mind of these Defendants towards this plaintiff.

Lord Ellenborough.—" This is not an indictment for slander, nor is malice the foundation of the action; for it is founded on the injury alledged to have been sustained by the Plaintiff.

Mr. Garrow.—" If a man slanders me in one publication, I may shew, by another, that he intended it.

Mr. Hunt.—" I bought this book this morning.

Mr. Garrow.—This is another copy of the same work; so that it appears these Defendants still persevere, in this publication, notwithstanding this action."

Mr. Attorney-General.—" I object to that evidence.

Mr. Garrow.—I submit to your Lordship, that what I now offer in proof, is evidence. These Defendants have published what I will now assume, for the sake of the argument, to be a libel on the Plaintiff. They have had notice, by our bringing this action, that it is a libel. In the case of Colonel Draper, your Lordship knows, an application was made to the court of King's Bench, for leave to file a criminal information; the court granted a rule to shew cause, and, pending that rule, he published the libel again, and that was held to be evidence of the malignity of the first publication, and the court made that rule absolute. This is evidence of a continuation of that malice, which has been, and still is, injurious to this Plaintiff; and, I say, ought to affect the damages in this case. That the master is bound by the servant's act in this case, I take to be clear. It shews, that whatever this injury is to this Plaintiff, these Defendants mean to continue it. They continue to sell this libel. They continue to make a profit of it, down to the very hour of trial.

Mr. Dampier.—This is evidence in *aggravation*, because, if the Defendants came to receive the judgment of the court for this publication; the stopping the publication would be evidence in

mitigation, and that, as it seems to me, is putting it to the test.

Mr. Attorney General.—That is doctrine applicable to *criminal*, but not to *civil* cases. My learned friend, Mr Dampier, overlooks a distinction which nobody understands better than himself.

Lord Ellenborough.—I do not see how we can take it as evidence in aggravation.

Mr. Garrow.—The ground on which I offer it, is this; I say, that these Defendants meant to publish to the world, a work, the object of which is, to render Sir John Carr ridiculous. I say, this publication, of these Defendants, is false and scandalous. Can it be doubted that I may prove, that the Defendants have continued that publication, to shew the extent of the injury, and the spirit of the offending party?

Lord Ellenborough.—" But we must allow a latitude to the free discussion of the merits and demerits of authors, and their works; otherwise, we may *talk* indeed of the liberty of the press, but there will be in reality an *end* of it."

Mr. Attorney General.—" I never heard that *Socrates* complained of the freedom of *Aristophanes**.

Mr. Garrow.—" Suppose I had a wen on my neck, or had any other deformity. Am I to be held up to ridicule, to gratify the malice of an individual, who chooses to be my enemy, and is that individual to continue to expose me, after notice given to him of his misconduct? That notice is given to him by the service of a process, which is the commencement of the action."

Mr. Attorney General.—The answer to all this is, that you can bring another action, if you are damnified, by any subsequent publication.

Lord Ellenborough.—" We must really not cramp observations upon authors and their works. They should be liable to exposure, to criticism, and even to ridicule, if their works be ridiculous; otherwise, the first who writes a book upon a subject, will maintain a monopoly of sentiment and opinion upon it.—You must never shew the absurdity of it, although it be absurd, that is, you can never do it with effect. This would tend to the perpetuity of error. A bad book might appear, it would propagate error, and so we should go on to the end of time. *How any body could conceive that an action is maintainable, for publishing a work, exposing another work to ridicule, is to me surprising.* Reflection upon personal character is another thing."

Mr. Garrow.—" I am not contending that the Defendants may not endeavour to shew, that the Plaintiff's book is a ridiculous one; but, they must not endeavour to destroy the Plaintiff altogether, as an author.

Lord Ellenborough.—" I do not know that. Suppose a person publishes a book containing sentiments that are injurious to public morals; of infinite mischief to the public taste; or bad maxims of government; or any thing else that ought to be decried; are we not to be at liberty to expose that work; aye, and expose the

* See Sir R. P.'s *false* report, page 35.

author of it too, as far as he is connected with that work, and that, in the most pointed language of wit, humour, or ridicule; the more pointed and forcible, the better. He who does so, if the work be ridiculous, or a bad one, confers a favour on, by producing a benefit to, the public. That it destroys the reputation of an author, and puts an end to the circulation of his works, is nothing, if his works be worthless. *Mr. Locke* published an answer to *Sir Robert Filmer* *; would any body give twopence, after that, for the works of Sir Robert Filmer? What then; was *Mr. Locke* to be made the subject of an action, for destroying the reputation of *Sir Robert Filmer*. Not at all. It was a reputation, that ought to have been destroyed, and was destroyed, for which the world has been greatly indebted to *Mr. Locke*. I really do not know where we are going to. To talk of the liberty of the press, if one man may not write freely, on the work of another, least he should destroy the reputation of that other, would be idle. Shew me an attack, on the *moral* character of this Plaintiff, or any attack on his character, unconnected with his books, and I shall be as ready as any man, who ever sat here, to protect him in that character, but I cannot hear of malice, on account of turning his works into ridicule."

Mr. Garrow.—They prevent the sale, of all the Plaintiff's works, by this immoderate ridicule of him, by wholesale, as an author.

Lord Ellenborough.—"They do so. They depreciate his character as an author, conceiving they have a right to do so."

Mr. Garrow.—Then let them shew that they have done it fairly.

Lord Ellenborough.—No, they need not. *You* must shew that they have done it unfairly.

Mr. Garrow—So I do, my Lord, by the exhibition of this frontispiece; which shews, that this book, is not a fair criticism, but a malignant slander.

Lord Ellenborough.—"Go on with your case."

Mr. Attorney-General.—"You must prove you published the four works which you have stated in the declaration."

Mr. Garrow.—"That we shall do immediately.

Mr. Johnson examined.

Mr. Garrow.—Q. Will you be so good as to relate, what connection you have had with the Plaintiff in this cause? A. I was a bookseller in St. Paul's Church-yard. I purchased "The Stranger in France" from Sir John Carr. I gave him one hundred pounds for it. It was printed in quarto.

Cross-examined by Mr. Attorney-General.

Q. That was in the year 1803, I believe? A. I think it was.

Q. It was printed off upon a hot press, bound in Morocco, and with gilt leaves, I see? A. Yes it was.

Q. Handsome mention made of it by the reviewers, I believe.

* See Sir R. P.'s *fair* statement of this, page 35.

And this was the first of Sir John Carr's publications?—A. I believe so.

Sir Richard Phillips, Knt. examined by Mr. Dampier.

Q. Did you, Sir Richard Phillips, purchase of Sir John Carr, a book called, "The Northern Summer; or, a Tour round the Baltic?"—A. I did.

Q. And also a "Tour through Ireland, and another along the Rhine?"—A. I did.

Q. They are all in quarto, I believe?—A. They are.

Q. What was the purchase money for each?—A. The price of the first was fixed by Mr. Hayley, who introduced Sir John Carr to me.

Q. Will you state the sums which you paid for these books?—A. Four hundred pounds for "The Northern Summer; or, Tour round the Baltic," and in consequence of a small increase in the quantity, I added another 100l. of my own accord.

Q. So that he had 500l. for this book?—A. Yes, he had. Mr. Hayley, of whom I have a high opinion, settled the price of that book.

Q. Then as to "The Tour through Ireland." What did you pay for that?—A. I gave Sir John Carr 600l. for that, and a conditional 100l. more I think, on the second edition; or, on the sale of a certain number—but previous to the whole of that number being sold—(considering that it would be sold), I gave Sir John Carr 100l. more. So that he had 700l. for the "Tour through Ireland."

Q. What did you give him for the other book, which you purchased of him, "The Tour through Holland?"—A. The same price. It is a sort of rule with booksellers, (at least it is so with me)—that when we are satisfied with the work of an author, we give him, for similar works, the same as we did before; without any treaty.

Q. So that you gave Sir John Carr 600l. for "The Stranger in Ireland, and, if it went through a second edition, you were to give him 100l. more; which you did?"—A. Yes.

Q. Now, Sir, have you seen a work of his called, "A Tour in Scotland?"—A. I have seen it in a manuscript; Sir John Carr has put it into my hands.

Q. It is a work prepared now for publication?—A. It is.

Q. Now, Sir, when you saw that, had you seen the present book, called "My Pocket Book?"—A. Yes, I had.

Q. Did you, at any time, see one of these Defendants, Mr. Hood?—A. *I frequently saw him!!!*

Q. So as to have a conversation with him, concerning this work—I mean the book, called "My Pocket Book?"—A. I have met Mr. Hood, and he has spoken to me *particularly* on the subject of the book, called "My Pocket Book!!!"

Q. Will you state to us, what he said to you, on that subject?—A. He began by asking me "*how Sir John Carr did?*" I said

he was very well. He went on to ask me, have you seen or read, " My Pocket Book?" I answered him by saying, " *I never read any* scurrility *of that kind.*"

Q. Did he make any answer to that?—A. He did. He said, " *the Lord have mercy upon Sir John Carr: we have a rod in pickle for him: we will do for him:*" or, " *we will do his business:*" or words to that effect. I *believe*, the words were, " *the Lord have mercy upon him, poor Sir John,*" or *some phrase of that sort, was thrown in—" we will do his business,*" or, " *will do for him*.*"

Q. Do you know, whether this book, called " My Pocket Book," has been extensively circulated?—A. I have reason to believe it has been, very actively, and industriously circulated. I have seen it in the windows of Booksellers, attracting some attention, in consequence of a ridiculous frontispiece; and Booksellers are, some of them, apt to expose works of this nature, on account of the oddity of appearance in them.

Q. Has it been circulated, in what they call " the trade circulation, and sale?"—A. I do not attend trade sales myself, and I cannot speak to that, but I can speak to this—that the whole edition was offered to the trade, at the trade price, and, that a thousand copies were so to be disposed of; as appears by this catalogue.

Attorney-General.—" You must say nothing to us about that catalogue, for it is not evidence."

Lord Ellenborough.—Certainly not, you must prove that publication as well as every other publication by the actual sale. The catalogue is nothing.

Mr. Dampier.—Q. Was this work, called " The Tour through Scotland," or whatever other title it might have—offered to you for sale?—A. Yes it was.

Q. Did you buy it, or did you decline it?—A. The impression which was made on my mind, in consequence of the publication of the book, called " My Pocket Book;" and the activity with which it was circulated, (as I perceived from the manner in which it was advertised) *together* with the *conversation* I had with *Mr. Hood, was such,* that I certainly declined to buy it.

Q. What was the reason of your declining to buy it?—A. *I certainly declined to buy it, in consequence of the publication of this book,* called " My Pocket Book."

Q. Had you, before you were aware of this publication, made any offer of any sum of money, for that work of Sir John Carr's, which you saw in manuscript?—A. Not at that time.

Q. Did you at any time?—A. Sir John Carr, subsequent to this, proposed and offered it to me, for 400l. together with the contingent advantage as before, but I declined it. *If this libel had not been published,* I should have given Sir John Carr the same as he had for the former works; for it is a *custom of our trade,* unless *something happens* to make us dissatisfied with the author's work, to give him the same sum, for every similar work, as he had for

the preceding one—and had I purchased this work, now in manuscript, of Sir John Carr; I should certainly have given him 600l. for it.

Sir Richard Phillips cross-examined by Mr. Attorney-General.

Q. You state yourself not to be a reader of *scurrility?*—A. I certainly do, I wish to read nothing of that kind.

Q. As you state yourself not to be a reader of any thing of that kind, I take it for granted, you never publish any thing of that sort?—A. I mean, that I never read *anonymous scurrility.* If I see the name of a respectable author on a title page, it becomes another thing.

Attorney-General.—Do not overpower me, Sir Richard Phillips, by a multitude of words, or by answering my questions before I put them to you; especially by references to anonymous writings.

Q. I take it for granted you never read the Edinburgh Review?—A. I have seen the Edinburgh Review—but I pay no respect whatever to that, or to any other work of *anonymous* criticism.

Q. I take it for granted, then, Sir Richard, that criticism owes its effect to the circumstance of a knowledge of who the author is?—A. It certainly ought to do so; to my mind Criticisms should always bear the names of the authors. I do not generally consider that *fair* criticism, which is *anonymous.*

Q. When did you publish these works of Sir John Carr?—A. I published the first work, " The Northern Summer," I suppose in 1803 or 4; " The Stranger in Ireland," in 1806; and the " Tour in Ireland," in 1807; " The Tour in Scotland," I saw in 1808—the present year

Q. As you do not read criticism, except you know who the critic, or the author is, I take it for granted, you do not attend to the Edinburgh Review. If Sir John Carr has been praised, or censured in the Edinburgh Review, I take it for granted you do not know it?—A. I never saw it.

Mr. Garrow.—" I object to the introduction of the Edinburgh Review. It is no evidence."

Lord Ellenborough.—" I understand the Attorney-General's question to be to this effect—to take the Edinburgh Review as a mere illustration of the present subject."

Mr. Garrow.—" If it be either directly complimentary to, or directly detracting from, the merit of Sir John Carr as an author; the Edinburgh Review may be referred to, as evidence of the opinion of literary persons, as to the merit of Sir John Carr, as an author; but, I submit to your Lordship, that otherwise, it is not evidence in this cause."

Lord Ellenborough.—" They are not taking any thing out of the Edinburgh Review, but the Attorney-General is cross-examining the witness, as to his acquaintance with that publication. I see nothing in the course of this examination, which calls upon me to stop it."

Attorney General.—" I ask Sir Richard Phillips, whether he knows that this book had been reviewed by the Edinburgh Reviewers?—A. I do not know it; I do not read the Edinburgh Review.

Q. You do not know there is such a publication, perhaps, as the Edinburgh Review?—A. There is such a publication, certainly, but I do not recollect that I have read the Edinburgh Review at all, except some parts of the first volume. I thought some of it scurrilous, and I abhor scurrility.

Q. Now, as you think this publication, which is complained of, is scurrilous; as you abhor scurrility; and, as you know it to be anonymous; you do not soil your pure mind with the perusal of it—are there any reviews published by any persons which are not anonymous?—A. None that I recollect, at this moment; there was one sometime ago by Dr. Maty.

Q. But you do know there is such a publication as the Edinburgh Review?—A. I do.

Q. Do you know whether there is such a publication as the Annual Review?—A. I know there is such a publication.

Q. Is that anonymous?—A. That has a name.

Q. Now, as you do not read scurrilous anonymous writings, and as that is not anonymous, since it has a name, perhaps you do read the Annual Review?—A. Never, now; I have looked into former volumes of it, but I never read it now; it is a very ponderous publication, which I do not read, because I have not leisure.

Q. Have you had a large sale of Sir John Carr's works?—A. A very respectable sale; a very considerable sale, of the first work. Of " the Tour in Ireland," and of " The Tour round the Baltic," I have sold, I think, very nearly 1500 copies.

Attorney General.—" I think, Sir Richard, that your reprobation of anonymous criticism, cannot be too much commended—certainly, nothing should be published without a name—it is proper we should always know who to resort to, in case any thing be published which is not proper.

Q. Pray, Sir Richard, was there not a review called " The Oxford Review?—A. Yes.

Q. Who published it?—A. It was printed by a person at Oxford.

Q. Very likely; but who published it in London?—A. I was the publisher in London.

Lord Ellenborough.—" Here, I think, I should caution you, Sir Richard Phillips, for although I do not know what that publication contained, it may contain something for which you may be responsible, and which may lead you into difficulty; we are here treading upon tender ground; you are not bound to answer any thing which may tend to involve yourself in difficulty."

Sir Richard Phillips.—" I thank your Lordship, but I shall certainly answer any question which the Attorney General chooses to ask me; I never printed a line, to my knowledge, which was calculated to hurt the feelings of any person living."

Lord Ellenborough.—" It is my duty to caution you, Sir Richard, and to tell you, that you are not bound to avow that you are the publisher of any work, which may contain any objectionable matter. You are entitled to a protection as a witness. You have laid yourself open already to many questions, which could not have been regularly asked of you, had you not chosen to avow yourself publisher of the work just alluded to."

Attorney General.—There was a work intitled " Public Characters," I believe?—A. There was.

Q. And you published it, I believe?—A. I did.

Lord Ellenborough.—" By the name of it, that is a work very likely to be extremely delicate; I caution you, once more, how you admit yourself to be the publisher of such works; you are not bound to admit any such matter. You appear to me to be admitting too much: I now give you notice, that I shall not caution you again. You have just admitted yourself to be the publisher of a book called " Public Characters," that, from the title of it, is likely to contain a great deal of very delicate matter."

Sir Richard Phillips.—I repeat again, my Lord, that I have no disinclination to avow every thing that I ever published. I never published any work which I should be ashamed to avow in this place."

Attorney General.—" On that ground, Sir Richard, you will tell me, whether you published a book called " Public Characters of the French Revolution?"—A. I do not know of any book under that title. There was a book published in 1796, by myself, giving an account of *The Founders of the French Republic*—but it was a plain narrative of facts. It was a chronological account of public men, who had figured away in France, in the course of the revolution. It was published with a view of giving an account of such persons—there was no scurrility in it, certainly.

Attorney General.—No scurrility?—A. Certainly none, that I am aware of.

Mr. Garrow.—My Lord, I rather think I ought to object to this, as an entirely wrong course of proceeding. One would think, from the course which my friend, the Attorney General, is now taking, that Sir Richard Phillips was the plaintiff, instead of Sir John Carr, for my learned friend seems, now, to be going into the public life and character of Sir Richard Phillips. Sir John Carr, the plaintiff upon this record, has nothing in common, nothing to do with Sir Richard Phillips. They have no connection with each other, except that the one of them is the author, and the other the publisher, of a certain work, and then, my Lord, how can any part of the life of Sir Richard Phillips be evidence upon this issue between Sir John Carr and these defendants?

Lord Ellenborough.—" I do not know any thing of what is common, or what is not common, between this plaintiff and this witness; but, you see here, that Sir Richard Phillips is the purchaser of this work; which is reviewed, or, if you please, censured, by the publication of the defendants. On the credit of the author of this

work, of which Sir Richard Phillips is the purchaser, depends the sale of the unsold part of that work, that is, of the edition now on hand; and this evidence, which he is now giving, that he is the proprietor, and consequently interested in the sale of this book, does not indeed go to his competency, but has a strong bearing on his credit, as a witness; and therefore the Attorney General should, I think, be allowed a larger scope than he should otherwise have, in his cross-examination. He has put to Sir Richard Phillips many questions, to which Sir Richard does not choose to demur, but to which he is certainly entitled to demur; he chooses to say that he is the publisher of many of these works, after the caution which he received from me. I wish he would be guided by other discretion than his own."

Mr. Garrow.—" All this, my Lord, is very well, as between the Attorney General and Sir Richard Phillips; but, I submit, has nothing to do with the interest of my client."

Lord Ellenborough.—" More or less I think it has—it has some reference to it certainly."

Attorney General.—Q. You have very properly uttered your sentiments in reprobation of all criticism which is anonymous—and you are the publisher of a book which gives us the character of those persons who figured in the French revolution. Pray what was the title of that book?—A. " Anecdotes of the Founders of the French Republic." It was published ten or twelve years ago; it was merely a matter-of-fact book; there was no scurrility in it whatever.

Q. Then it contains nothing but an account of facts within your own knowledge?—A. No, not so; I was not the author, but the publisher.

Attorney General.—And yet you say it is a mere narrative of facts; how can you say so, unless they are facts within your own knowledge?—A. It was a mere plain narrative of facts.

Lord Ellenborough.—How do you know them to be facts, if you were not present at the transactions?—A. It was certainly a narrative of what the author stated to me, and what I considered to be, facts. It was like every other book of grave Biography and History.

Attorney General.—I think we have now got pretty well rid of the book, which you call the " Narrative of Facts."

Q. You were publisher of the Oxford Review?—A. Yes.

Q. You had nothing anonymous in it of course. Pray what were the names of the Oxford Reviewers? Were they known to the public?—A. They were not.

Q. You say you would not put your name to any thing that was anonymous, or a scurrilous publication. And you say that you published " Anecdotes of the Founders of the French Republic." And you say that you, yourself, published the Oxford Review, which was anonymous?—A. Yes; but they had not the character of the works which I have reprobated.

Attorney General.—To be sure, for you state that these were

facts which you published in your "Anecdotes of the Founders of the French Revolution." And you state also, that you were not the author, but merely the publisher of that book. Pray was that book anonymous?—A. Yes, but not scurrilous.

Q. No, not scurrilous, God forbid?—A. Yes, God forbid. I thank you for the phrase.

Attorney-General.—You say there is such a book as the Edinburgh Review, which is anonymous, and the Annual Review, which is not anonymous, which is published, I believe, by *Mr. Aikin.* Now did it ever occur to you, when you were so much interested in the credit of Sir John Carr's works, to enquire what Mr. Aikin, who is not an anonymous writer, says of his works?—A. In respect to periodical criticism of the anonymous kind, I ought to say that I have neither time, nor inclination, to look into it; nor do I often look into the annual review. It is a ponderous volume, and if I had inclination, I should not have time to read it.

Q. The Oxford Review, I take it for granted, you read, since you were the publisher of it?—A. Yes.

Q. I take it for granted, you had the honesty to subscribe your name to that opinion?—A. I shall never withhold my opinions; I published the Oxford Review from a desire that there might be a fair review. My wishes and my feelings suggested to me, that there ought to be at least *one honest review* in the country. A number of gentlemen at Oxford, united their labours to write for it; and it was printed there, under their direction, and published by me in London. It had no scurrility in it whatever; but I found that a review which had no personal abuse, would not succeed, and therefore I discontinued its publication.

Q. That was your feeling, and such your reasoning?—A. Yes.

Lord Ellenborough.—That is, you are now slandering all publishers but yourself. That is calling all other reviewers slanderers. I wish you would attend to the advice of others, whose prudence you seem to want.

Sir Richard Phillips.—My Lord, I know a great deal about reviewers!

Attorney-General.—Q. Perhaps you never, in advertising a book of your own, annexed to it any commendation of reviewers?—A. I have not done so for many years, I was in the habit of doing it formerly, but I have not done it for many years. I became ashamed of the practice, and I left it off.

Attorney-General.—"That is, you grew up into virtue, as they fell into vice."

Lord Ellenborough.—This is saying, that every publisher is dishonorable but yourself. Pray do not arrogate to yourself all the virtue in the publication of books. Are you aware of the effect of your testimony. You have, just this instant, told us, that you have been doing that of which you are ashamed. And that you discontinued it, because you were ashamed of it. Answer the questions plainly without these comments.

Sir Richard Phillips.—My Lord, I have endeavoured to do so. I have said that I formerly published advertisements of books with the characters of reviewers annexed to them. It was the ordinary practice of the trade. I have said, that I discontinued it, and I did so. And I have said that I left it off because I was ashamed of it, and I am so.

Attorney-General.—Q. At what time did you change your system. Will you swear, that within these last six years, you have not published a book annexing to its advertisement, the commendation of reviewers?—A. Yes, I have no doubt I have. It may have happened within these two or three years, perhaps, but this has arisen from accident. We keep our old advertisements standing in the form in which we have been used to send them to the newspapers, for five or six years together. So that an advertisement may latterly have gone into a newspaper with the same paragraph in it, of the commendation of the reviewer, a long time after I had determined to discontinue that practice.

Q. You know of the Annual Review, and there is the Monthly Review?—A. Yes.

Q. And there is the Eclectic Review, and the Critical Review?—A. Yes.

Q. Now, I ask you, there being this number of reviews, have you never looked into any of them to see if Sir John Carr's work was reviewed by them?—A. I do not recollect to have done so, within the last twelve months.

Q. I ask you whether you have not looked into them concerning "The Stranger in Ireland?"—A. I do not recollect to have seen "The Stranger in Ireland," noticed in more than one review. I have seen it, in some one review; I do not recollect which it was.

Q. What was the character given of it in that review?—A. I think, in the review in which I saw it, it had a very good character.

Mr. Attorney-General.—Now, Sir Richard Phillips, I will ask you another question; have you not yourself assigned as a reason for not publishing this work of Sir John Carr's, which you have seen in manuscript, "The Tour in Scotland," "That Sir John Carr was *worn out*?"—A. I never used the phrase.

Q. Nor any thing like it?—A. No, nor any thing like it.

Q. You never have assigned that as a reason for not publishing that work? Nor any other reason except that of this publication, called "My Pocket Book," and these imputations cast upon the genius of the author?—A. I have been asked by booksellers, questions which they had no business to ask me, about Sir John Carr's works, and conceiving such questions to be impertinent, I have said to such booksellers, "that my public engagements would prevent me from embarking in such publications, and I have given that answer in tenderness to Sir John Carr.

Q. Have you read "The Tour through Scotland?"—A. I have looked into it, but not read it through.

Q. It is finished?—A. It is.

One of the jury (Mr. Gibson).—Q. I think, Sir Richard, you told the booksellers that your public engagements would prevent you from embarking in such publications; and that you gave that answer out of tenderness to Sir John Carr. Pray what was that tenderness?—A. Because I would not have it understood that any work of that kind, (meaning such works as "My Pocket Book") had had an effect, which appeared to me to be so prejudicial to his character.

Mr. Attorney-General.—I will deal candidly with you, Sir Richard. The person to whom I alluded, when I asked you whether you had not said, "Sir John Carr was worn out," is a Mr. Murray. Now I ask you, did you not say so to him?—A. No, I did not, *that I recollect.*

Q. Will you take upon yourself to say, upon your oath, that, to Mr. Murray, you did not say "that Sir John Carr was worn out?—A. I could not say such a thing.

Q. Do you swear positively, that you did not say that "Sir John Carr was worn out?"—A. I certainly do say, that I did not say so.

Mr. Leigh examined.

Q. Do you know Sir John Carr?—A. Yes.

Q. Had you any conversation with him, about the purchase of any manuscript of his?—A. He offered to me his Scotch Tour.

Q. Did you purchase it?—A. I declined it.

Q. Have you seen this book called "My Pocket Book?"—A. I have.

Q. What was the reason of your declining to purchase the Scotch Tour of Sir John Carr?—A. I declined it on account of the unfavourable impression which this book made, called "My Pocket Book."

Q. What sum would you have given for the Scotch Tour, if it had not been for the book called "My Pocket Book?—A. Four hundred pounds.

Cross-examined by Mr. Adolphus.

Q. How long have you been in the business of a bookseller?—A. Sixteen or eighteen years.

Q. How long have you been in partnership with Mrs. Matthews?—A. Three years.

Q. She was the widow of the late Mr. Matthews in the Strand, I believe?—A. Yes.

Q. And you say, you would have given, to Sir John Carr, 400l. for his Scotch Tour, if it had not been for the unfavourable impression made by the publication of the book, called "My Pocket Book?"—A. Yes.

Q. Did you ever give 400l. for any book?—A. Never.

Q. You know Sir John Carr?—A. Yes.

Q. And you knew that he had shewn this manuscript, of the Scotch Tour, to Sir Richard Phillips?—A. I had heard that Sir Richard Phillips had not published any new work for a considerable time.

Q. Then you, who never gave 400l. for any book, would have stept out of your course, to give 400l. to Sir John Carr, had it not been for the impression made by the publication of the book, called " My Pocket Book?—A. Yes.

Lord Mountnorris examined.

Q. I wish to know, my Lord, whether you have read Sir John Carr's work, called " The Stranger in Ireland?—A. I have.

Q. Have you looked at the book, called " My Pocket Book?—A. I have. I was induced to read both with attention. Sir John Carr had been recommended to me by *Mr. Atkinson*, who spoke of Sir John Carr very favourably; and, as I understood that his book related to Ireland, and that the subject was treated handsomely, I felt an interest in its perusal. I read it, and I read the book called " My Pocket Book." I compared them both, chapter and chapter, and the different parts of the " Stranger in Ireland," selected in the work called " My Pocket Book," are pointed out so strongly, that I knew them immediately.

Q. Then, my Lord, I ask you, whether you consider the book, called " My Pocket Book," to be a publication intended to ridicule the work, called " The Stranger in Ireland?"—A. I certainly do.

Lord Ellenborough.—" I suppose that will be admitted?

Mr. Attorney-General.—" Certainly, my Lord."

Lord Ellenborough.—" It is now admitted, that the Defendant's publication, was intended to ridicule the Plaintiff's book.

Mr. Garrow to Lord Mountnorris.—Q. As to the frontispiece. Does not that appear to your Lordship to apply to Sir John Carr?—A. I think this book, called " My Pocket Book," applies so strongly to Sir John Carr, that I should have bought " The Stranger in Ireland," but would not, after reading this book. It depreciated the other book so much, in my opinion, that I would not buy it afterwards.

Q. Now, my Lord, as to the engraving: I mean the description of the frontispiece. Does your Lordship understand that to apply to Sir John Carr?—A. It is so strongly drawn, that it is impossible to mistake it.

Cross-examined by Mr. Attorney-General.

I am happy to have the honour of addressing a Nobleman of letters instead of the Knight who lives by letters, and knows nothing more of them than the livelihood which they afford him.—Q. Your Lordship, as I understand, has read through Sir John Carr's book, " The Stranger in Ireland?"—A. With great attention.

Q. From the impression it made on your mind, you would have given a large price for it?—A. Certainly.

Q. You read both the " Stranger in Ireland" and " My Pocket Book?"—A. I read them both, and compared them chapter and chapter, afterwards separately.

Q. Then, my Lord, in your mind, the effect which the book, called " My Pocket Book," had, is the cause why you did not afterwards buy the book of Sir John Carr, called " The Tour in

Ireland." That is, my Lord, you came to that conclusion—you would have bought the one, if it had not been for the other? —A. Certainly, from the handsome manner in which he spoke of Ireland.

Q. Sir John Carr speaks in very handsome terms of Ireland; he was recommended to your friendship; that consideration would have induced you to buy, but having read "My Pocket Book," and the book itself of which it treats, and which it ridicules, you were deterred from purchasing that work itself?—A. I certainly should have purchased it, but for that.

Q. But that exposed and placed it in so ridiculous a light, that you would not buy it?—A. Certainly.

Q. Your Lordship sees, in this work which you have read with so much attention, the expression "erratic stranger;" does your Lordship understand that to be the comet, or Sir John Carr himself?—A. I really do not clearly comprehend it.

"Before this "ERRATIC STRANGER" you behold a cloud—'tis "Shakespeare's, and "*very like a* WHALE." The *moon*, my favourite "star, smiles benignly upon my labours; and three wild Irish are, *for the night only*, seen flying in compliment to me." I suppose these wild Irish are meant for Sir John!

Lord Valentia examined.

Q. I would ask your Lordship, whether you have seen this book, together with the explanation of the frontispiece?—A. I have.

Q. Does that apply to Sir John Carr, and his works, intending to expose him to ridicule?—A. I have read a part of "The Stranger in Ireland," and I think this work is intended to expose that to ridicule.

Cross examined.

Q. Which do you think was meant, by this passage [reading that to which he had before alluded on the examination of my Lord Mountnorris] the comet, or Sir John Carr himself?—A. I cannot exactly answer you that question.

Mr. Garrow.—Now, my Lord, I propose to put in, "The Monthly Mirror," purchased at the shop of these Defendants, to shew the manner in which they have advertised this work, which, for the present, we call a libel.

Mr. Attorney-General.—I think, that other books, are not evidence in this action.

Lord Ellenborough.—They are of very little importance in this cause. I am not clear that they are, in strictness, evidence. But I shall not refuse to receive them. But, Mr. Attorney, you shall have the benefit of your objection hereafter, in the event of that becoming necessary. I do not see what the Plaintiff can want them for.

Mr. Garrow.—To shew *quo animo* the Defendants published this book.

Lord Ellenborough.—They tell you their intention was to ridicule the works of the Plaintiff, what can you have more? If the

evidence be gone into, I shall confine it to its application to the book in question. If any thing comes into my note, that does not relate to that book, I shall immediately obliterate it.

Mr. Garrow.—They take an advantage which they possess, by being publishers of a periodical work, of extending their ridicule of the Plaintiff.

Lord Ellenborough.—That can never go further, for the purpose of this cause, than their avowal that it is their object to ridicule the Plaintiff as an author.

Mr. Garrow.—Then we will rest here. That is my case.

DEFENCE.

Mr. Attorney-General.—May it please your Lordship: Gentlemen of the Jury,—I did venture to suggest, to my learned friend, somewhat irregularly, while he was addressing you on this subject, that he was, by anticipation, doing that, with regard to me, which he complained my Client had done with regard to his—that is, treating me with ridicule. He told you, that probably, in the course of my address to you to day, or on some other time, (although from his partiality to me, he was kind enough to say, it was but seldom it happened), that I should say something that should be ridiculous. That is as seldom his case as any body's. But he told you that we, all of us, in our turns, say some things that subject us to ridicule. I am afraid we do. But I really, without affectation, declare, I think that my learned friend falls into that error as seldom as any body. But if a man were determined to try how ridiculous he could make himself appear, in so ridiculous a cause as this is, I think we have had a specimen how that object might be accomplished. I could, certainly, make many observations on the very many ridiculous passages which are to be found in the works of Sir John Carr, and which fully justify the ridicule of this book, of which he complains. But I abstain; the case is so rich with ridicule without it; that it would be bad taste to take that course. There is so much in the dramatis personæ, that it renders every thing in the way of ridicule superfluous.—First we have *Sir Richard Phillips*, who has given us evidence of his being either one of the greatest fools that ever lived under the sun, or that he is not to be credited on his oath. I say it appears from his own testimony, either that he has given us false evidence, or that he is the greatest fool that ever walked upon the face of the earth—without a guide.

Lord Ellenborough interposing.—Weakest, perhaps Weakest.

Attorney-General.—The weakest man that ever walked upon the face of the earth without a keeper.—Erasmus would have given any thing for him when he wrote his Encomion Moriæ—or Pope, when he wrote his Dunciad. If the author of

the *Dunciad* were now living, he would have changed his hero.—If we were living in the days of POPE—we should have a new edition of the Dunciad after this scene. Sir Richard Phillips tells us, that he is publisher of three of these voluminous works, which have been exhibited to you as the productions of Sir John Carr. He has told you, that he had given large sums of money for them. That he was about to open a negociation with Sir John Carr, for the purchase of another work, and he tells you, there are I think five different reviews, the object of which is, to treat of the merits or of the demerits of different publications as they appear in the world, and that they must rise or fall, in a great measure at least —that is, fail of success, or succeed with the public, according to the impression produced by these periodical publications. This must be the case with "The Stranger in Ireland," as well as any other work. And Sir Richard Phillips being interested in pocket, as to the credit of that work with the public; tells you, that he never looked into any one of these reviews. He felt that, as soon as he said it, to be a strange thing to be said by a bookseller. For a man who derives emolument from the credit of authors—who eats and drinks their labour—lives upon it.—He felt himself bound to account for this strange expression.—He does account for it—"I never mix myself," says he, "with anonymous scurrilous publications." That is, in substance, "this, my love of virtue, prevents me from opening publications of that kind. They are productions so much beneath me, that I despise them. The purity of my mind might be corrupted by perusing them." Have you read the Edinburgh Review?—"I have formerly, but I do not now. I have two objections to them, that they are anonymous, and that they are scurrilous;" and yet he admits, that himself was publisher of "Anecdotes of public Characters in this Country," and, "Anecdotes of the Founders of the French Republic." He is the publisher himself of these two works, and they are both anonymous—but he startles at the bare mention of scurrility. "These anecdotes are *facts*—a simple narrative of *facts*." Did these facts, Sir Richard, happen to fall within your own knowledge?—Answer me that plain question.—"No, no, no; facts, as the *authors* of the works stated to me." That is what Sir Richard Phillips calls a narrative of facts—so much for Sir Richard Phillip's narrative of facts, and so much for his abhorrence of scurrility. Now for his abhorrence of anonymous publications—I feel, he says, and so he ought to feel—so we all ought to feel—"an abhorrence of anonymous scurrility," and yet he publishes two books which are anonymous—whether they contain any thing that is scurrilous, we will not here stop to inquire. But we now come to the reviews: he holds them in great abhorrence: I suppose some of his publica-

tions have been roughly handled by them. But who was the publisher of the Oxford Review?—Himself, and here he elevated himself above all other booksellers; for, says he, "I published the Oxford Review, that there "might be *one honest review* in the kingdom," consigning all others, Doctor AIKIN's and the rest to ignominy—placing himself upon a pedestal, looking down on others and degrading them altogether, a condition in which he is not intitled to place himself. Now, Gentlemen, is Sir Richard Phillips that pure, immaculate character which he states himself to be?—I put it to you, thus—do you believe he swears truly when he swears, that he became the publisher of the Oxford Review, *merely* for the purpose of giving to the public one honest review in this kingdom? Do you believe that he swears truly when he swears that?—Gentlemen, I told you that Sir Richard Phillips was either a witness who had tript in his evidence, or else, that he is a man the most infirm in judgment that ever walked on the face of the earth without a keeper. He states to you, that he would have given the same sum for the work of Sir John Carr now in manuscript that he gave for the others, had it not been for the publication of this book, called "My Pocket Book." He tells you, there are five reviews, in all of which, he knows, as well as any body, that this work must be handled as others are, but so little does he read reviews or anonymous criticisms, that he hardly looks at them, and he hardly looked at this work, called "My Pocket Book," and yet he tells you in the same breath, that in consequence of these petty comments, as he calls them, of this book, "My Pocket Book," he declined to buy the other work of his favourite author Sir John Carr. But for this scurrilous little work, he would have given Sir John Carr 700l. for the work which he now has in manuscript. Now, I do say, either that is not true, or Sir Richard Phillips is the weakest and the most absurd creature that ever crept on the face of the earth. I could not conceive, had I not seen it, that a man could have made a figure so foolish. I cannot conceive, that a man should so act against his interest, as knowing there were these reviews and publications, and knowing how the next book of Sir John Carr might at least be handled, and yet would have given 600l. in the first instance for this manuscript of Sir John Carr's, if it had not been for this little book, "My Pocket Book," which Sir Richard Phillips tells you, at the same time, is a contemptible little work, and which, if that be true, could have had little, if any effect upon the public mind. I have been led into this mode of reasoning from the ground which Sir Richard Phillips has thought fit to take. He has arrogated to himself all the honour in the kingdom, as far as it regards the publication of books, and reviews of books. What

standard shall I take to judge of the propriety or the impropriety of this publication, called "My Pocket Book"—as containing just or unjust criticism on the work of Sir John Carr, called "The Stranger in Ireland?" I will appeal to my Lord MOUNTNORRIS, who has a high personal respect for the author of the book, called "The Stranger in Ireland," and partial towards the subject of it. The truth is, that Sir John Carr went to Ireland well recommended. He received there the honour of knighthood—and knighthood, fine cloaths and genteel manners, are an introduction into genteel circles, and gain a high name for a while, to an author, and may be a short substitute for genius, to a person who chooses to figure as an author. He thought his name would *uphold his book*, but that will never do long, unless the book can *uphold his name*. Sir John Carr thought that his book would pass on account of his name. And it very nearly had. My Lord Mountnorris had very nearly got himself into the scrape of buying this book of Sir John Carr's, called "The Stranger in Ireland." He would have done so, but from the circumstance of his having seen this book, called "My Pocket Book." And here I think my Lord Mountnorris has some reason to complain of his friend Sir John Carr, and of those who gave him that name. Not that I mean to insinuate that Sir John Carr is unworthy of the honour of knighthood; I am speaking of him merely as an author, and in that view, knighthood may sometimes have the effect of a false token. "Cum pulchris tunicis sumet nova consilia et spes." But what effect has this book called "My Pocket Book," had on the public mind? Why my Lord Mountnorris, who has a personal respect for Sir John Carr, shall answer that question. He said that understanding Sir John Carr to have spoken handsomely of Ireland, and feeling an interest in that subject, he was disposed to buy the book; but he read this criticism, and having read it, he read the book which was the subject of it. He then compared them with each other—what was the effect of his doing so? Why, *that he would not buy the book*. Why did he not buy the book? *Because it had been so successfully ridiculed*. How came it to be so successfully ridiculed? *Perhaps you can guess*. My Lord Mountnorris had like to have reposed too much confidence in the name of the author. But having looked at the book which gave an account of it, and then having compared them with one another, that is, he compared the book of Sir John Carr with the manner in which it had been turned into ridicule, he said to himself—"This work of my friend Sir John Carr, will not do for me—I will not buy it." This is putting things to the test—this is exactly the use of criticism, which is preventing those who have not seen, from buying bad books. This is a proof that in the judgment of

my Lord Mountnorris, a man of erudition, a friend to the author too, and partial to his subject—thinks the book, after an attentive perusal of it, *not worth buying*. My Lord Mountnorris did not content himself with reading this criticism, but he read the book itself, and after perusing both, he found the book of Sir John Carr *so ridiculous a work* that he would not buy it, for he did not choose to be laughed at by those who might see it in his library.

I do not complain of those who purchase books without having read them, or hearing something of their character from men of judgment; but those who, like my Lord Mountnorris, take the precaution to peruse a book before they buy it, are, I think, a great deal more prudent. My Lord Mountnorris has shewn us the *utility of criticism;* and I think he has shewn us the *justness* of the *criticism* here complained of.

Gentlemen, I think this case a great deal too clear to require any further observations. I confess I had brought my mind up to saying a good deal on the subject of Sir John Carr's literary labours. I had been almost tempted to do so; but I think it has become unnecessary after the evidence you have heard. I might have compared the works of Sir John Carr with authors of antiquity whose works have been treated with ridicule. There was SOCRATES, and ARISTOPHANES criticised him; but his doctrines were not the less published on that account. Why? Because the ridicule did not affect his fame. It is because works are ridiculous, that ridicule affects them. Whoever sends into the world a book, gives to the public a right of dealing with the contents of that book as the contents deserve. If the book be a work of genuine merit, no attack upon it, however violent, or however ingenious, will do it any permanent injury. If, on the other hand, it be a work which has for its support, nothing but knighthood—a large margin—hot-press—gilt leaves and Morocco binding, it really never can stand the test of criticism, and the sooner it is sent into the shades the better. The public are indebted to the critic who so disposes of it; for the public have an interest in the discouragement of bad books, almost as much as in the encouragement of good ones. It has another good effect—It shews those who have not, otherwise, means of discovering the true character of a book, how to save their money. Such is the effect of genuine criticism, and a very valuable thing it is to the public. I have my learned Friend's concession, that fair and manly criticism, even if you do not agree in opinion with the critic, is not to be complained of. I think my Lord Mountnorris has proved this to be of that character.—Gentlemen, I will detain you no longer; I am quite satisfied that you will be of opinion, that this book, although severe, was published in the spirit of fair criticism, and, of course, that your verdict will be for the Defendants.

CHARGE.

Lord Ellenborough.—Gentlemen of the Jury, This is an action brought by Sir John Carr against these two Defendants, booksellers of the names of HOOD and SHARPE, for having published, what he contends to be, a work intending to turn him into ridicule; and he alledges in his declaration, that he has suffered special damages on account of this book; that he, being about to sell another work to Sir Richard Phillips, that bookseller declined to purchase that work; on which account he could not sell it, whereby he lost the considerable advantage which has been stated to you.

Now, Gentlemen, before we advance to the work itself, let us look at the principle of this species of action. Every person who writes any book, and publishes it, of whatever description it may be, commits it to the public; any person may comment upon it, upon its principle, upon its tendency, or upon its style—may answer, and expose to ridicule its character, if it be ridiculous—and may do the same thing with the author, as far as he is embodied in the work. Now this publication of the Travels of Sir John Carr, makes "a description of the place where he is," a principal part of the work. He is taking his departure from Dublin; and he speaks of himself in a manner that connects himself with the work. The book published by the defendants takes notice of this part of the plaintiff's work, and it is exhibited in the print, and it refers to parts of Sir John Carr's book wherein expressions are used similar to those used in the present publication. It is contended that this work of the defendants should not be suffered, because it ridicules, immoderately, the works of this plaintiff. Why, Gentlemen, if the thing itself be ridiculous—if the principle of it be bad—or, though the principle be unobjectionable, if the work itself be ill digested—bad composition—written with bad taste, or otherwise defective, so as to deserve the character of a "bad book"—it is doing great service to the public to write it down; such works cannot be too soon exposed—the sooner they disappear the better. I speak this without prejudice to the work of Sir John Carr, for I have not read a word of it. It may be, for aught I know, excellent. It would be unfair in me to censure what I have not read, like the Sheriff—God forbid I should do so; the books of this gentleman may be very valuable works. But this I say—whatever character his works merit, others have a right to pass their judgment upon them, and to censure them, if they be censurable, and to turn them into ridicule, if they be ridiculous.

If there were no such right, we should have no security for the exposition of error; bad systems of philosophy would not be written down, as that of DES CARTES was by NEWTON; and bad systems of government would not be written down, as that of Sir ROBERT FILMER's was by LOCKE *. After Mr. Locke had published his work upon Government, against that of Sir Robert Filmer, I dare say this Sheriff, Sir Richard Phillips, would not have given a shilling for the book of Sir Robert Filmer, if it were a publication of the present time. What then? Could any body maintain an action against Mr. Locke for his publication, for writing down the fame of Sir Robert Filmer? Certainly not. Mr. Locke did great service to the public by writing down that work; and, indeed, any person does a service to the public, who writes down any vapid or useless publication, such as never ought to have appeared. It prevents the dissemination of bad taste, by the perusal of trash; and prevents people from wasting both their time and money. I say this, however, as applicable to fair and candid criticism, which every person has a right to publish, although the author may suffer a loss from it. It is a loss, indeed, to the author; but is what we in the law call Damnum absque injuriâ; a loss which the law does not consider as an injury, because it is a loss which he ought to sustain. It is, in short, the loss of fame and profits, to which he was never entitled; and the person who occasions that loss, by fair criticism, is not guilty of that species of conduct which subjects him to an action in a court of justice. Why then, let us suppose that the Plaintiff in this action has lost the benefit of selling this Scotch Tour, now in manuscript, to Sir Richard Phillips; if he has lost it, by fair criticism upon his former works, which criticisms have rendered his writings ridiculous, he must abide by such loss, it being his fate to sustain it by fair criticism. This I take to be the law. If it were otherwise, I do not know where we are to stop. No man will be at liberty to expose the works of another, however ridiculous. I think we ought to resist a complaint, against fair and liberal criticism, at the threshold; I think it is our policy, in every view of the thing. I do not know any thing that more threatens the liberty of the press, in the times in which we live, than giving too much encouragement to this species of action. But do not let me be misunderstood; for I do not mean to say, that if there was any thing in the book, published by the Defendants, of a libellous tendency, wholly foreign to the work, or unconnected with the author of it, as embodied in the work; if there was any thing in it, tending to render him ridiculous, unconnected with the work, the action is not maintainable. Neither you nor I have appeared before the world

* See Sir R. Phillips's *honest* statement, page 35.

in the character of an author, at least I have not; but, if I had, I should not think myself entitled to maintain an action against any body else, who ridiculed my work, and proved it to be ridiculous. If any person chooses to exhibit a picture, which was in itself ridiculous, another cannot be liable to an action, for pointing out wherein it is ridiculous. If another chooses in his work to draw a picture of himself, to place himself in a given situation, another person has a right to finish that picture by exposing it to ridicule, if it be ridiculous; and by criticising upon the words which the author has made use of. If, therefore, you think this is a criticism of the work of this author, and of the author himself, as far as he is connected with the work only, and not written by way of calumny upon him as an individual; I am of opinion that this action is not maintainable. But if you are of opinion, that this work is written against this author, as a man, and unconnected with his work, then, my opinion is, that the action is maintainable. We do not find, that there is any charge here on account of the work being anonymous. In a word, if you are satisfied, that this criticism is levelled at the Plaintiff's work, and at the Plaintiff himself, only as he is connected with, and embodied in, the work, I am of opinion that he must take the consequences of it: and, indeed it does not appear to have done any material injury, as appears from the opinion of my Lord Mountnorris, who considered the criticism so extremely clever, that after having read it, and the work to which it referred, chapter by chapter, he says, I should have bought the one, but for the other; which is equivalent to his having said, that he thought the volume, to which the criticism referred, not worth buying; and, if you think so, Gentlemen, you will find your verdict for the Defendants.

One of the Jury.—" Is there any thing in the Defendants' book of a libellous tendency, by way of personal attack, on the character of the Plaintiff, unconnected with his publications?"

Lord Ellenborough.—Something has been referred to of that kind; but nothing has been laid before us in proof of it. The Plaintiff appears to be placed in a ridiculous situation, in a group of figures. He might have been so described by words. If any thing had been said of this Plaintiff reflecting on his character, unconnected with this book, I should have told you that, in my opinion, it would have been a libel; but we have no proof of that.

One of the Jury.—" If it be contended, that there is any personal reflection upon the Plaintiff in this book, unconnected with his writings, we must go through the contents of it."

Lord Ellenborough.—We have no proof that there is.

The Jury, without a minute's consultation, returned a—VERDICT FOR THE DEFENDANTS.

Lord Ellenborough.—I hope nobody will understand, from the result of this trial, that there is the least countenance given to slander, nor to ridicule of any author, any more than any other individual, unless such ridicule be connected with his works, and the author is embodied with his work; for courts of justice are as tender of the moral characters of all men, whether they be authors or not, as they are firm in maintenance of the right of every individual, to give a free opinion, on every publication of a literary work.

ADDENDA.

TO a report of this trial *, printed by *T. Gillet*, (printer to Sir Richard Phillips,) is subjoined an Appendix containing a Letter from the EARL of MOUNTNORRIS to the BRITISH PRESS, and one from himself to Mr. COBBETT. These Letters are here republished, and *the author of* "MY POCKET BOOK" has added the replies, which he made to them at the time. The public will judge whether the suppression of his answers, especially that to Sir Richard Phillips, was worthy of any lover of common honesty or truth.

EARL OF MOUNTNORRIS'S LETTER,

Respecting Sir John Carr's late Action.

TO THE EDITOR,

SIR—In the report of an Action brought by Sir John Carr against Hood and Sharpe for a Libel, which appeared in *The British Press*, of the 26th inst. I am grossly misrepresented as having given evidence in favour of the Defendants, when I attended *solely* and conscientiously on behalf of Sir John Carr.

* The *note* at p. 54. bears its *author's mark* upon it. Sir Richard, is there styled, "a public man, *of known independence and integrity*." It was certainly not written by Mr. BLORE, who, in some trimming *observations* on the Knight's *Memoirs*, says, that Sir Richard was deceived "if he thought he could make me the tool of his *dishonourable purposes*." Crosby, and Co. 1808. If this *Trial* is not sufficient, the pamphlet alluded to, and another called "*Statement of a Correspondence*," by the same learned antiquary, will shew what we are to understand by the "*known integrity*" of Sir Richard Phillips.

SIR RICHARD PHILLIPS complains bitterly of the misrepresentations of the newspapers in their account of the trial. Had the matter been left to *him*, he would have prevented all this *garbling!* The following *note* was written by him to the editor of a newspaper, enclosing his *ungarbled* report of the trial, which is here preserved.—(Post mark 30th July.)

On the trial, Sir J. Carr, v. Hood, the daily papers having much misrepresented the testimony of Sir R. Phillips, a friend *of that gentleman begs the insertion of the inclosed short, but* accurate, *account of the case.*

"In the King's Bench, at Guildhall, on Monday, an action of damages at the suit of Sir John Carr, Knt. against Messrs Hood and Sharpe, booksellers.

The Plaintiff had written a variety of Books of Travels, of which he made a considerable emolument. The Defendants had published a book called "*My Pocket Book*," ridiculing the Plaintiff's writings, and, in consequence of which, he was prevented from disposing of a manuscript "*Tour through Scotland*," for which he sought damages, not only to the amount of the loss sustained, but to deter others from sending forth such scandalous and scurrilous publications.

Mr. Johnson, bookseller, proved that he purchased the manuscript of "*The Stranger in France*," from the Plaintiff for 100l.—Sir Richard Phillips deposed, that he purchased from the Plaintiff his "*Northern Summer Tour round the Baltic*," for 500l.; "*The Stranger in Ireland*," he gave him 700l. for; and for his "*Tour through Holland*," 600l. He had seen the manuscript of the "*Tour through Scotland*," and *(should as a matter of course,*)* have given 600l. if it had not been for "*My Pocket Book*," which *he heard* had depreciated the works of the Plaintiff so much, that it deterred him. Sir Richard was cross-examined by the Attorney-General, who asked, if he ever read reviews? To which he answered, he did not, abhorring the scurrility, partiality, and misrepresentation, with which they abounded, and knowing, as *he did*, the manner in which they were manufactured. He had, he allowed, for *some time*, been the publisher of "*The Oxford Review*," which had been set up as an experiment, to try if a Review, free from scurrility, would succeed, which it did not†. Being asked if he had not read the "*Edinburgh Review*," he said, he did not remember to have read more than *two* or *three* of the first numbers; unless he might occasionally turn it over in a bookseller's shop; and the same as to other Reviews mentioned by the Attorney General.—He was asked if he himself published no anonymous books? He said, he published a *great many*, but they contained no scurrility or abuse. He was asked had he not published books, entitled "*Anecdotes of the Founders of the French Republic*," and "*Public Characters*," with some others? [Here Lord Ellenborough said, the witness need not answer this question to criminate himself.] Sir Richard *warmly* replied, he was ready to answer that, and all other questions Mr. Attorney-General might choose to ask, *and was in no degree afraid to criminate himself*, by acknowledging the contents of any work he had ever published. *He therefore courted the questions of the Attorney-General, (instead of shrinking*)* from them, *exclaiming, God forbid that he should be ashamed to avow in that place*, every act of his life. *Nothing was gained by the cross-examination, which lasted above an hour.*

The Attorney-General in his reply, declared Sir Richard Phillips must either have slipped in his testimony, or he was the greatest fool on earth, to be, as he was, *the greatest publisher of books in London* ‡, and not to read the reviews of his works, and treat with his authors accordingly. The publication called *My Pocket Book*, the learned gentleman contended, was nothing more than a fair criticism of a book which deserved to be held up to public ridicule.

Lord Ellenborough observed, that every man had a right to criticise the writings of another, and even to hold them up to ridicule, so that he cast no personal reflections on the author. If fair criticism injured the sale of a work, it was *damnum absque injuria*. As to the present question, if the criticism went beyond observations on the work, or on the author, merely as such it was actionable, and not otherwise. The Jury accordingly found for the defendant.—The Duke of Bedford, and other noblemen, friends of Sir John Carr, attended on the Bench.

During this trial, his Grace the Duke of Bedford, Earl of Mountnorris, Lord Valentia, and Sir Richard Phillips, sat on the bench with Lord Ellenborough.

* These words within parenthesis were alterations by Sir R. Phillips on the printed copy sent to the papers.

† Why anonymous, Sir Richard?

‡ What, the *Attorney General* turned *puff*, Sir Richard!

For the purpose of effacing so foul an aspersion upon my honour and my judgment, I beg, through the medium of your Paper, to state that I never did say that I thought the work which formed the ground of the action *fair criticism*, that I never spoke disrespectfully of Sir John Carr's literary productions, or asserted that the Caricature Prints, contained in the work complained of, were sanctioned by fair and just criticism. (Signed)

Warfield Grove, July 31, 1808. MOUNTNORRIS.

The Editor of the *British Press*, in his Paper of the 4th of Aug. made some judicious remarks on this Epistle, particularly on the "*thick and thin*" phrase *solely*, and considered the whole a forgery. The author of "MY POCKET BOOK" had the *courtesy* to think the same, and wrote the following article in the *British Press* on the 5th of August.

The author of "My Pocket Book" to the Earl of Mountnorris.

MY LORD—I have read the remarks of the Editor of *The British Press* on your Lordship's letter, or rather, as he observes, and I am bound to believe, the letter falsely ascribed to you; and I am perfectly satisfied with his knowledge of the law of evidence, and the duty of any one served with a *subpœna ad testificandum*. That your Lordship should say, that you attended *solely* on behalf of Sir John Carr, is internal evidence sufficient of the fabrication.—The noble and venerable Earl of Mountnorris merits not "so foul an aspersion" on his legal knowledge. He knows it to have been laid down, that "Evidence signifies that which demonstrates, makes *evident* or clear, or ascertains *the truth of the very fact or point in issue, either on the one side or the other.*"

It is indeed highly improbable that your Lordship should be indignant at the assertion, (granting it to have been made) that you "*spoke disrespectfully* of Sir John Carr's literary productions," since you swore that you had read both "*The Stranger in Ireland*, and *My Pocket Book*," chapter by chapter, and, notwithstanding (according to the epistle) the latter was *not fair criticism*, you would not purchase Sir John's work; or, in other words, for you had *not been* deceived, but had made the comparison, you thought it not worth buying. I will not pretend to trust to myself in a case so delicate as that which might lead me to differ from your Lordship; but in the report of the trial *, I find that the Earl of Mountnorris thought "*My Pocket Book*" was a fair and just criticism on the other. I shall now recall an observation, made by your Lordship in court, which naturally engraved itself so deeply

* In the *newspapers;* and see *page 26*.

amongst the "*fond records*" of my brain, that I shall not easily be suspected of dropping a syllable of it in my repetition.—Nothing but a forgery could lead to this confusion, for can your Lordship think "*My Pocket Book*" any thing but "*fair and just criticism*," when you said (while sitting in the students' box,) to a Barrister—who through the crowd could get no other place—"*My Pocket Book* is the wittiest thing I ever read—*I would give* 500*l. to be the author*, but I would pay 500l. rather than be the subject of it."—Your Lordship is justly jealous of any "*aspersion* upon your *judgment*."—Believe me, my Lord, *I* think it so sound and enlightened, that I will stand up in its defence, "*like Atlas unremoved!*"

With regard to poor Sir John, the victim of the advice of friends, but particularly of one, whose dealings in *assurance* are much greater than they are in common sense, he is to be pitied.—Well has it been said, "Protect me from *my friends*, I'll take care of my enemies myself!"—I do pity him, but the bed is of his own making, and if he find it strewed with more thorns than roses, it is no fault of mine. It was the opinion of the Attorney-General, and my Lord Ellenborough, that I had "*done a public service.*"—As my motive was merely to laugh down a trade of book-making, disgraceful to literature, I think I deserved this reward, especially after being brought into Court:—No indifferent thing, let me tell your Lordship; for I know not what Sir John may consider it—but it always strikes me, (and it did on this occasion very forcibly!) that when two *authors* go to law, they might much better, for the sake of their wisdom, and as well for their safety, toss up which goes to the *Bench*. I remain,

With great respect, and infinite obligations
for your late testimony,
Your Lordship's most obedient Servant,
THE AUTHOR OF "MY POCKET-BOOK."

To the Right Hon. the Earl of
Mountnorris, &c. &c.

On the 6th of August, the subsequent Letter appeared in COBBETT'S POLITICAL REGISTER.

Letter from Sir Richard Phillips to Mr. Cobbett, relative to the cause, Carr versus Hood.

SIR,—The licentiousness of *the Tongue* at the Bar, is so justly appreciated by the sensible part of the public, that it ought not to excite any other emotion than contempt in him who at any time is the object of it. If in consequence of a *signal* in-

stance of that licentiousness during a late Trial, I am induced to take up my pen, I am actuated *solely* by a respect for your numerous intelligent readers, to whom you have favoured me with the *honour* of an introduction.

You must be too well acquainted with the artifices practised by anonymous writers, to be surprised at learning that the report of the late Trial between *Carr* and *Hood*, copied from a Newspaper into your last Register, was written by the *very* person whose pamphlet had been the *object* of that Trial! Hence you may readily account for the *inconsistencies* of which the plaintiff and his witnesses are by this reporter made guilty!

The words of every *idle* question of the Attorney General, are in this report gravely ascribed to me as the words of my answers, and I am thus absurdly made to condemn *all* anonymous publications; * vaunt my *own virtues;* praise the *purity of my own books;* and say other *childish* things which I *neither said* nor thought, and which in justice I beg leave to refer back to their *real* author! Indeed, the learning of the Bar on this occasion, shone *resplendently*, and we had perpetual references made to high-sounding works which never existed, such as *Milton's answer to Sir Robert Filmer, Aristotle's answer to the works of Socrates, and Sir Isaac Newton's Controversy with Descartes* †!

Besides making the preceding general explanations, I have to remark on one point of your own observations. You have obviously confounded two very different works when you characterize as *false* and *scandalous* a publication of mine (many years out of print) entitled "*Anecdotes of the Founders of the French Republic.*" This book was published in 1797, and consisted of a *grave*, chronological account of the persons concerned in the then recent events in France. Its alledged faults, were that of *praising many persons*, who, it *since appears, were unworthy of praise*, and of omitting to *abuse others* who were then obnoxious

* The absurdity of this statement is apparent; every bookseller is constantly in the practice of publishing unexceptionable anonymous works; but there is a wide difference between *anonymous* invective, or abuse directed against an author or his writings which CALLS FOR RESPONSIBILITY, and an *anonymous* statement of scientific or historical facts, or an *anonymous* discussion of abstract principles. *Phillips.*

† This cannot be termed "a trip in evidence," because it is not stated on *oath:* Sir R. Phillips is here only upon *his honour;* it is one of *his* FACTS, *grave facts*, (page 35). *Lord Ellenborough* and the *Attorney General* are perfectly correct in their titles of the works alluded to, (see pages 9, 10, 28); but although Sir Richard *abhors scurrility*, yet he has not *sworn* to *abhor wilful* or *malicious mistatements.* H.

in this country. You, with others, have obviously confounded this work with one of very different character on the same subject, published within these two or three years by other booksellers, written by Stewarton, a French emigrant, and called the *Revolutionary Plutarch*. This work was unquestionably a disgrace to the press and the character of the country, and it deserves the epithets with which you have *inadvertently* branded mine.

I am not disposed to enter the lists with you as a controversialist, but with respect to *the liberty of the press*, I am persuaded we shall not ultimately disagree. I am a *friend to criticism*, and to the unrestrained publication of it, *but I do not annex the same degree of authority to the writings of every man who sets up for a Critic*. He who *avows* his criticisms, and who is consequently known to be, in other respects, a man of integrity and learning, obtains with me a very different degree of credit from an *anonymous* trader in criticism who writes in a periodical Review, at a given price by the sheet! Still, I do not object to the free publication even of such criticisms, *manufactured* as they generally are under the direction of some *interested* publisher; but I must be allowed not to surrender *my judgment* of literary productions to critics, who come before me in so questionable a shape. He would truly be "the greatest fool that ever trod the earth," who should submit his opinions to such influence *. Availing themselves of their concealment, it is well known to *those* who have been *behind the scenes* during the *getting up* of an *anonymous review*, that books are commonly reviewed by *authors themselves* —by the rival authors in the same branch of literature—by the personal enemy of an author—or by the most corrupt and ignorant scribblers †.

* These words and the alternative, that I had "slipped in my testimony," were *extravagantly* applied to me by the Attorney General, for declaring that I did not read, and did not respect the opinions of an anonymous Reviewer, and consequently was not influenced in my negotiation with an author, by the character of his works given in the reviews. I have no doubt that publishers, *in general*, entertain an *equal* contempt of anonymous opinions of books, and I conceive there exists little difference of opinion on the subject, among the *intelligent* part of the public. *Every man of letters*, and every person acquainted with the details of literature, will *thank me* for thus exposing *a craft*, the practices of which are *as disgraceful* and as *pernicious* as those of advertising money-lenders. The *craft* may furiously assail me in return, but the cause I advocate, is THE CAUSE OF TRUTH, SCIENCE, AND LITERATURE! *Phillips.*

† This is not a personal question, and therefore it is of no consequence to its merits that I was myself concerned for about fourteen months, as a proprietor of the Oxford Review. Nothing however is conceded by he admission, because the Oxford Review was EXPRESSLY and AVOW-

Attaching, therefore, *no credit* to such writings, is it to be wondered, that I do not waste my time in reading Reviews?

And convinced as I am, that the abuse of the critical art, arising out of the *concealment* of the critics, has *discouraged* and *blighted* the genius of the country, *baffled* the *cause of truth* and *obstructed the progress of science, is it to be wondered* that when questioned on this subject, *I entered my protest* against so *mischievous* an *usurpation*, in matters of taste and literature?

In justice to the respectable character and honourable views of Sir John Carr, I feel it incumbent on me to explain, that he did not found his late action on the pretended criticisms in the pamphlet of which he complained, but *solely* and *exclusively* on the *caricatures* which had been introduced into it *, and which it must be universally allowed are *novel* and *not very legitimate auxiliaries* of *genuine criticism*.

I am, Sir, yours, &c.

R. PHILLIPS.

Bridge-street, Aug. 4, 1808.

In the succeeding number of the *Political Register*, the Author of My Pocket Book replied in these terms:

Letter from the Author of "MY POCKET BOOK."

SIR;—The "licentiousness" of the pen of SIR RICHARD PHILLIPS, in your last Register, ought not perhaps "to excite any "other emotion than contempt;" but as "the greatest fool that "ever trod the earth" (to borrow a description from the Attorney

EDLY in terms set up as an EXPERIMENT, to try whether a review on totally *opposite* principles to those then in existence would succeed; and it failed, owing to its *want* of that severity of personal attack which it appears is a *principal* recommendation of anonymous criticism. *Phillips.*

* Did Sir Richard Phillips refuse to purchase the Tour in Scotland *in consequence of these Caricatures?* Did he *not* reject Sir John's work *one month before these* Caricatures *were in existence!!!*

Did he not compel Longman and Co. to cancel a leaf in the Edinburgh Review, for an attack on his immaculate character? Did he not advertise Turnbull's Voyage, with a long extract from the Edinburgh Review? —No, no; he *never reads reviews*. He *never* gets authors to review their own books. He has *no interest* in Collins's Account of Books, which contains panegyrics on all his own works. And he has *no concern* in his "Own Life," published by Mr. Hughes of Tottenham-court-road—which contains many letters, that *no one else* could *furnish*. H.

General, confirmed by my Lord Ellenborough,) may, in the very prevailing party of which he is the towering head, find some congenial souls, "*Asinus asino, et sus sui pulcher,*" to admire his wisdom, and to believe his assertions, I am compelled to ask you for a corner, in which I may stand to make my defence. You have ably vindicated the right of freemen to speak the *truth*, and you will of course, be the last man to deny any one that honourable privilege—*honourable* I call it, notwithstanding the meed which legal wisdom has prepared for those who exercise it in our enlightened day!—I was present when SIR RICHARD PHILLIPS, in his court dress, stood uninvited on the Bench, and bore witness against his neighbour, *i. e.* brother bookseller, and I appeal to every one present whether they ever saw malignity so overshoot itself; but it had its reward—No one in the pillory (for speaking the *truth* or *any other crime*) would I think, since the custom of *lending an ear to justice* has fallen into disuse, have changed elevations with him. The severe remarks of the Chief Justice, and the poignant animadversions of the Attorney General, are well remembered by SIR RICHARD; but the cause, which warranted them, has, it seems, wholly escaped him.—*He* uttered no "*childish things,*" to use his gentle terms! With this *fact*, I beg to couple his assertion, that he never read any anonymous criticisms, or cared any thing about them; and to add, that before me, at this moment, I have letters written by SIR RICHARD to a proprietor of a work, in which there is an anonymous review of books, and these letters complain piteously of the censure, which is there passed on some of his publications, and request a *friendly* conference with this gentleman on the subject. This being the case in one instance, perhaps we may say, "*ex uno disce*"—Latin again! I beg pardon, Mr. Cobbett—but one slice is enough—we need not eat the whole of a goose to know that it is not sweet!—The principal object of my letter yet remains to be stated: "You "must be too well acquainted with the artifices practised by ano- "nymous writers, to be surprised at learning, that the report of "the late trial between CARR and HOOD, copied from a news- "paper into your last Register, *was written by the very person* "*whose pamphlet had been the object of that trial. Hence* you "may readily account for the inconsistencies of which the Plain- "tiff and his *witnesses* are by *this* reporter made guilty!"—These are the words of SIR RICHARD PHILLIPS in your Register. Now, on the honour of a gentleman, and as I value my last hopes, I never reported, or influenced the report of the trial in any newspaper, or in any shape whatever; and as I have at no time been suspected by an Attorney General (not much given to jesting) to

have "slipped in my testimony," I trust that I shall, at least on this occasion, have the preference due to my solemn asseveration.

I am, &c. &c.

THE AUTHOR OF "MY POCKET BOOK."

Aug. 8, 1803.

P. S. As to "the *respectable* character of SIR JOHN CARR," domestically speaking, I am as ready to believe it to be such, as SIR RICHARD is to tell me so; but I need not inform Mr. Cobbett, that "*quand on parle* d'ouvrages d'esprit *il ne s'agit point* d'honnêtes hommes, mais de *gens de bon sens.*"—A calf may be a very worthy calf—aye, and make a very good *knight,* but I have reason to believe that he would make a very sorry *writer of travels, bookseller,* or *sheriff.*

THE END.

W. Wilson, Printer, St. John's Square.